ALEC American Legislative Exchange Council

LIMITED GOVERNMENT • FREE MARKETS • FEDERALISM

MEMORANDUM

TO: HEALTH AND HUMAN SERVICES TASK FORCE MEMBERS

FROM: CHRISTIE HERRERA, HHS TASK FORCE DIRECTOR

RE: 35-DAY MAILING: HHS TASK FORCE MEETING AT ALEC'S 2012 SPRING TASK FORCE SUMMIT, CHARLOTTE, NORTH CAROLINA

DATE: APRIL 6, 2012

Overview of ALEC's 2012 Spring Task Force Summit

The American Legislative Exchange Council will hold its 2012 Spring Task Force Summit (STFS) on May 10-11 at the Westin Charlotte. The STFS agenda, registration, and hotel information are now online.

Legislator Scholarships for ALEC's 2012 Spring Task Force Summit

Any ALEC legislator who has been appointed to serve on the HHS Task Force for the 2012-13 term is eligible for $350 in travel reimbursement and a two nights' stay (room and taxes only) at the Westin Charlotte. Registration fees for ALEC legislators are not covered; however, ALEC legislative task force members may submit registration expenses for payment from their state scholarship account upon approval of the state chair.

If you are a legislator and have questions about ALEC's scholarship policy, please contact Sean Riley at 202-742-8541 or at sriley@alec.org. Also, if flights from your state exceed the $350 limit, please contact Sean and we can work with you on covering your extra costs.

HHS Task Force Meeting Agenda for Friday, May 11

12:45-2:00 p.m., Grand Ballroom D

HHS Task Force Luncheon: "Diabetes: The Costs, the Risks, and What Legislators Can Do About It"

Moderator: Wisconsin Senator Leah Vukmir, HHS Task Force Public Sector Chair

Speakers

* Chris McGowen, diabetes patient and director of government affairs and public policy, Novo Nordisk
* Bob Babbage, former secretary of state and state auditor, Commonwealth of Kentucky
* North Carolina Representative Tom Murry, pharmacist and co-chair of the Joint Legislative Task Force on Diabetes Prevention and Awareness (INVITED)

Nearly 32 million Americans have diabetes today—and that number includes 1 in 4 seniors and an alarming rise of adult-onset diabetes in children and pregnant women—at a cost of $300 billion to our economy. As states struggle with new healthcare costs, lawmakers must consider the impact of diabetes on the Medicaid program. The latest projections estimate over 53 million Americans to have the disease by 2025, with a resulting medical and societal cost of $514.4 billion. And according to the Agency for Healthcare Research and Quality, appropriately treating diabetes could save states nearly $400 million/year in preventable hospital stays. Join our expert panel as they discuss the risks and costs of the diabetes crisis in America, and what state legislators can do to save taxpayer dollars and improve patient care, including current solutions already being implemented.

2:00-5:15 p.m., Grand Ballroom D
HHS Task Force Meeting

About ALEC's 35-Day Mailing

If you choose to receive 35-Day Mailings via "snail mail," please contact Sean Riley at 202-742-8541 or at sriley@alec.org. We will assume that you prefer the 35-Day Mailing e-mailed to you unless you indicate otherwise.

Enclosed Materials

Please find the following HHS briefing materials enclosed. Please note that an HHS Task Force roster is not included in this mailing; however, HHS Task Force members can request a copy at any time by e-mailing Sean Riley (sriley@alec.org).

- Faxable registration form for ALEC's 2012 Spring Task Force Summit
- Agenda-At-A-Glance for ALEC's 2012 Spring Task Force Summit
- Tentative Agenda for the HHS Task Force Meeting at ALEC's 2012 Spring Task Force Summit
- Potential Model Legislation (in order of submission):
    - *Charity Health Care Tax Credit Act*, sponsored by Georgia Senator Judson Hill
    - *Regional Health Care Coalition Act*, sponsored by Georgia Senator Judson Hill
    - *Zarephath Charity Health Care Act* (and background document), sponsored by Alieta Eck, Association of American Physicians and Surgeons
    - *Health Care Price Disclosure Act*, sponsored by Arizona Senator Nancy Barto
    - *Physician and Patient Freedom of Vaccine Choice* Act, sponsored by Don Stecher, Novartis
    - *Resolution Supporting the Repeal of the Independent Payment Advisory Board (IPAB)*, sponsored by Kathryn Serkes, Doctor Patient Medical Association
- Draft HHS Task Force Meeting Minutes from ALEC's 2011 States and Nation Policy Summit
- ALEC's Mission Statement/Scholarship Policy by Meeting/Task Force Operating Procedures

Questions?

I look forward to seeing everyone in Charlotte. If you have any questions or comments regarding the meeting, please contact me at (202) 742-8505 or at christie@alec.org. Thank you for all you do to make ALEC a great organization for great health care policy!

1101 Vermont Avenue, N.W., 11th Floor • Washington, D.C. 20005 • 202-742-8505 • Fax: 202-466-3801
www.alec.org

2012 ALEC SPRING TASK FORCE SUMMIT

May 11, 2012
The Westin Charlotte Hotel
601 South College Street ● Charlotte, NC 28202

charlotte, north carolina
may 11, 2012
spring task force summit

ATTENDEE REGISTRATION / HOUSING FORM

Early registration deadline: April 5, 2012
Housing cut-off date: April 5, 2012

Online
www.alec.org

Fax ***(credit cards only)***
202.331.1344

Phone / Questions
Registration 202.742.8538 (Mon-Fri, 9am-5:00 pm Eastern)
Housing 1.866.837.4148

ATTENDEE INFORMATION

Prefix *(required)* □ Sen □ Rep □ Del □ Mr □ Mrs □ Ms □ Other _____

Last Name _____ First Name _____ Middle Initial _____ Badge Nickname _____

Title _____

Organization *(required)* _____

Primary Address □ Business □ Home _____

City _____ State/Province _____ Country _____ ZIP/Postal code _____

Daytime phone _____ Fax _____ Alternate phone _____

Email *(confirmation will be sent by email)* _____

Emergency Contact Name _____ Day Phone _____ Evening Phone _____

Dietary Restrictions _____

□ This is my first time attending an ALEC event.

*Spouse / Guest: If registering a spouse or guest, please complete the spouse/guest registration form

REGISTRATION INFORMATION

Registration Fees *Note: Member fees are subject to verification*	***Early*** **Until April 5**	***Onsite*** **Beginning April 6**
□ ALEC Legislative Task Force Member	$ 150	$ 150
□ ALEC Private Sector Task Force Voting Member	$ 250	$ 250
□ ALEC Non-Profit Task Force Voting Member	$ 250	$ 250
□ ALEC Legislative Member/ Non-Task Force Member	$ 300	$ 400
□ Private Sector Member/ Non-Task Force Member	$ 550	$ 650
□ ALEC Non-Profit Member (501(c)(3) status required)/ Non-Task Force Member	$ 475	$ 575
□ Legislative/ Non-Member	$ 400	$ 500
□ Private Sector/ Non-Member	$ 675	$ 825
□ Non-Profit Non-Member (501(c)(3) status required)	$ 625	$ 725
□ Legislative Staff/ Government	$ 400	$ 500
□ ALEC Alumni	$ 350	$ 450
□ ALEC Legacy Member	$ 0	$ 0

REGISTRATION FEE : $_____

Note: Registration forms with enclosed payments must be received by April 5, 2012 to be eligible for early bird registration rates. Forms and/or payments received after April 5, 2012 will be subject to on-site registration rates.

METHOD OF REGISTRATION PAYMENT

Credit Card: Credit cards will be charged immediately.

□ Amer Express □ Visa □ MasterCard

Card # _____

Cardholder *(please print)* _____

Exp Date *(mm/yy)* _____/_____ Signature _____

REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations cancelled prior to 5:00 pm Eastern April 5, 2012 are subject to a $100 cancellation fee. Registrations are non-refundable after 5:00 pm Eastern April 5, 2012. Registration fees may be transferred from one registrant to another. All refund requests must be made in writing and sent via email to meetings@alec.org or fax to 202-331-1344.

REGISTRATION CONFIRMATION INFORMATION Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

HOUSING — RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS April 5, 2012

□ I do not require a reservation at this time.

Arrival Date _____ **Departure Date** _____

□ Sharing room with _____

Room type

□ Single	(1 Adult)	$ 139
□ Double	(2 Adults)	$ 139
□ Triple	(3 Adults)	$ 139
□ Quad	(4 Adults)	$ 139

** All rates DO NOT include sales tax 15.25% (subject to change)*

Suites and upgraded accommodations are available upon request. Please call 1.866.837.4148 for additional information.

Special requests

□ ADA room required:
____ Audio ____ Visual ____ Mobile

□ Rollaway / crib: _____

□ Other:

_____

_____

METHOD OF HOUSING PAYMENT

□ Please use the same method of payment as above.

Credit Card: Credit Cards will be used to guarantee the reservation.

□ Amer Express □ Visa □ MasterCard □ Discover

Card # _____

Cardholder *(please print)* _____

Exp Date *(mm/yy)* _____/_____ Signature _____

Note: Cutoff for reservations at the ALEC rate is April 5, 2012. After April 5, 2012, every effort will be made to accommodate new reservations, based on availability and rate.

HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email within 72 hours of receipt.

HOUSING CANCELLATION / REFUND INFORMATION

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation number when your reservation is cancelled.

2012 ALEC SPRING TASK FORCE SUMMIT

May 11, 2012

The Westin Charlotte Hotel
601 South College Street ● Charlotte, NC 28202

SPOUSE/GUEST REGISTRATION FORM

Online
www.alec.org

Fax (*credit cards only)*
202.331.1344

Phone / Questions ● Mon-Fri, 9am-5:30 pm Eastern
Registration: 202.742.8538

ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

Last Name _____ First Name _____

Organization_____

Daytime phone_____

Email (*Confirmation will be sent by email)* _____

SPOUSE / GUEST REGISTRATION

SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.

Last Name _____ First Name _____ Middle initial _____ Badge Nickname _____

Last Name _____ First Name _____ Middle initial _____ Badge Nickname _____

Last Name _____ First Name _____ Middle initial _____ Badge Nickname _____

SPOUSE / GUEST REGISTRATION FEES	***Number of Spouse/Guest(s)***	***Fee***	***TOTAL***
□ Spouse / Guest *please note name(s) above*	_____	$ 50	$ _____

METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT
Credit Card: Credit cards will be charged immediately. Please fax to the above number for processing.

□ Amer Express
□ Visa
□ MasterCard

Card # _____
Cardholder *(please print)* _____
Exp Date *(mm/yy)* _____/_____ Signature _____

REGISTRATION CONFIRMATION INFORMATION
Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

REGISTRATION CANCELLATION / REFUND INFORMATION
Registrations are non-refundable after 5pm Eastern April 5, 2012.

Agenda

Thursday, May 10, 2012
Registration
3:00 p.m. – 7:00 p.m.

NC Welcome Reception
8:30 p.m. – 11:00 p.m.

Friday, May 11, 2012
Registration
7:30 a.m. – 2:00 p.m.

Task Force Subcommittee Meetings
8:00 a.m. – 9:45 a.m.
All Task Force members are welcome and encouraged to attend their Task Force's Subcommittee meetings.

Digital Learning Subcommittee
8:15 a.m. – 9:15 a.m.

Energy Subcommittee
8:15 a.m – 9:15 a.m.

Fiscal Policy Reform Working Group
8:15 a.m. – 9:15 a.m.

Other Subcommittees to be Determined

Workshop:
9:30 – 10:45
All ALEC members are welcome to attend.

Workshop:
11:00 a.m. – 12:15p.m
All ALEC members are welcome to attend.

Task Force Lunch Meetings
1:00 p.m. – 2:00 p.m.
Task Forces will each begin serving at 12:45 for luncheon.

Task Force Meetings
2:00 p.m. – 5:15 p.m.

- Civil Justice
- Commerce, Insurance, and Economic Development
- Communications and Technology
- Education
- Energy, Environment and Agriculture
- Health and Human Services
- Public Safety and Elections
- Tax and Fiscal Policy

Spring Task Force Summit Reception
6:30 p.m. – 8:30 p.m.

ALEC American Legislative Exchange Council

LIMITED GOVERNMENT • FREE MARKETS • FEDERALISM

Health and Human Services Task Force Meeting
ALEC's 2012 Spring Task Force Summit
Friday, May 11, 2012 • 2:00-5:15 p.m. • Grand Ballroom D

TENTATIVE AGENDA

12:45 p.m. **HHS TASK FORCE LUNCHEON**
Diabetes: The Costs, the Risks, and What Legislators Can Do About It
Chris McGowen, Novo Nordisk; Bob Babbage, former Kentucky State Auditor; North Carolina Representative Tom Murry; Wisconsin Senator Leah Vukmir

2:00 p.m. **Welcoming Remarks**
Roundtable Introduction of Task Force Members and Guests
Recognition of New and Returning ALEC Members
Approval of Minutes from ALEC's 2011 States and Nation Policy Summit
Wisconsin Senator Leah Vukmir, HHS Public Sector Chair
Marianne Eterno, Guarantee Trust Life Insurance, HHS Private Sector Chair

2:30 p.m. **SPECIAL PRESENTATIONS**
Biosimilars 101
John Murphy, Biotechnology Industry Organization (BIO)

2:45 p.m. **Update on The Morning Center**
James Lansberry, Alliance of Health Care Sharing Ministries

2:50 p.m. **MODEL LEGISLATION: DISCUSSION AND VOTING**
(NOTE: Model legislation is considered in order of submission. Any model legislation not considered at this meeting will be considered at ALEC's 39th Annual Meeting.)

**** Charity Health Care Tax Credit Act*:** Georgia Senator Judson Hill
**** Regional Health Care Coalition Act*:** Georgia Senator Judson Hill
**** Zarephath Charity Health Care Act*:** Alieta Eck, Assn. of American Physicians & Surgeons
**** Health Care Price Disclosure Act*:** Arizona Senator Nancy Barto
**** Physician and Patient Freedom of Vaccine Choice Act*:** Don Stecher, Novartis
**** Resolution Supporting the Repeal of the Independent Payment Advisory Board (IPAB)*:** Kathryn Serkes, Doctor Patient Medical Association

5:15 p.m. **Good of the Order/Adjournment**

CHARITY HEALTH CARE TAX CREDIT ACT (DRAFT, MAY 11, 2012)

SUMMARY

This Act provides state tax credits for individuals ($1,000/year), families ($2,500/year), and nonprofit charity organizations (up to 75% of income tax liability) who provide healthcare services to the uninsured.

MODEL LEGISLATION

Section 1. Title. This Act shall be known as the "Charity Health Care Tax Credit Act."

Section 2. Definitions. For the purposes of this Act:

A. "Charity health care organization" means a nonprofit corporation supporting 50 or more charity health care clinics providing health care services to the uninsured and qualified as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

B. "Charity health care organization" means a nonprofit corporation supporting 50 or more charity health care clinics providing health care services to the uninsured and qualified as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and approved by the **{insert state department of health and human services}** pursuant to this Act.

C. "Qualified charity health care expense" means the expenditure of funds by the taxpayer during the tax year for which a credit under this Act is claimed and allowed.

Section 3. Eligible Charity Health Care Organizations. The **{insert state department of health and human services}** shall approve and maintain a list of charity health care organizations eligible for the purposes of the charity health care tax credit.

Section 4. Charity Health Care Tax Credit.

A. An individual taxpayer shall be allowed a credit against the tax imposed by **{insert reference to state tax code}** for qualified charity health care expenses as follows:

    1. In the case of a single individual or a head of household, the actual amount expended or $1,000.00 per tax year, whichever is less; or

    2. In the case of a married couple filing a joint return, the actual amount expended or $2,500.00 per tax year, whichever is less.

B. A corporation or other entity shall be allowed a credit against the tax imposed by **{insert reference to state tax code}** for qualified charity health care expenses in an amount not to exceed the actual amount expended or 75 percent of the corporation's income tax liability, whichever is less.

C. In order for the taxpayer to claim the charity health care organization tax credit under this Act, a letter of confirmation of donation issued by the charity health care organization to which the contribution was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer files an electronic return, such confirmation shall only be required to be electronically attached to the return if the Internal Revenue Service allows such attachments when the data is transmitted to the department. In the event the taxpayer files an electronic return and such confirmation is not attached because the Internal Revenue Service does not, at the time of such electronic filing, allow electronic attachments to the **{insert state}** return, such confirmation shall be maintained by the taxpayer and made available upon request by the **{insert state revenue commissioner}**. The letter of confirmation of donation shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the date of the contribution, and the amount of the credit.

D. The **{insert state revenue commissioner}** shall be authorized to promulgate any rules and regulations necessary to implement and administer the tax provisions of this Act.

Section 5. Limitations and Reporting Requirements.

A. In no event shall the total amount of the tax credit under this Act for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the taxpayer against the succeeding five years' tax liability. No such credit shall be allowed the taxpayer against prior years' tax liability.

B. In no event shall the aggregate amount of tax credits allowed under this Act exceed $2 million per tax year for the three years beginning January 1, 2013, except that any unused aggregate credits shall carry over until December 31, 2018, at which time any unused aggregate tax credits shall expire.

C. The **{insert revenue commissioner}** shall allow the tax credits on a first come, first served basis.

D. For the purposes of Paragraph B of this Section, a charity health care organization shall notify a potential donor of the requirements of this section. Before making a contribution to a charity health care organization, the taxpayer shall notify the **{insert state department of revenue}** of the total amount of contributions that the taxpayer intends to make to the charity health care organization. The **{insert state revenue commissioner}**shall preapprove or deny the requested amount within 30 days after receiving the request from the taxpayer and shall provide written notice to the taxpayer and the charity health care organization of such preapproval or denial which shall not require any signed release or notarized approval by the taxpayer. In order to receive a tax credit under this Act, the taxpayer shall make the contribution to the charity health care organization within 60 days after receiving notice from the **{insert state department of revenue}** that the requested amount was preapproved. If the taxpayer does not comply with this paragraph, the **{insert state revenue commissioner}** shall not include this preapproved contribution amount when

calculating the limit prescribed in Paragraph B of this Section. The **{insert state department of revenue}** shall establish a web-based donation approval process to implement this Section.

E. Preapproval of contributions by the **{insert state revenue commissioner}** shall be based solely on the availability of tax credits subject to the aggregate total limit established under Paragraph B of this Section. The **{insert state department of revenue}** shall maintain an ongoing, current list on its website of the amount of tax credits available under this Act.

F. Notwithstanding any laws to the contrary, the **{insert state department of revenue}** shall not take any adverse action against donors to charity health care organizations if the **{insert state revenue commissioner}** preapproved a donation for a tax credit prior to the date the charity health care organization is removed from the list maintained by **{insert state department of health and human services}** pursuant this Act, and all such donations shall remain as preapproved tax credits subject only to the donor's compliance with Paragraph D of this Section.

G. No credit shall be allowed under this Act with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution to a bona fide charitable health care organization qualified under Section 501(c)(3) of the Internal Revenue Code.

Section 6. {Severability Clause}
Section 7. {Repealer Clause}
Section 8. {Effective Date}

REGIONAL HEALTH CARE COALITION ACT (DRAFT, MAY 11, 2012)

SUMMARY

This Act authorizes the insurance commissioner to establish a coalition of like-minded states with reciprocity agreements for the approval, offer, sale, and rating of comprehensive major medical health insurance plans. The coalition would also adopt an alternative approval process for such plans.

MODEL LEGISLATION

Section 1. Title. This Act shall be known as the "Regional Health Care Coalition Act."

Section 2. Statement of Purpose.

A. The **{insert legislature}** seeks to initiate cooperation of like-minded states to create a multistate coalition with reciprocity agreements for the approval, offer, sale, rating, medical underwriting, renewal, and issuance of comprehensive major medical individual and group health insurance policies.

B. The **{insert legislature}** recognizes that insured health policies must be filed in each state for approval and compliance with each separate state's administrative and coverage requirements. The **{insert legislature}** believes that a coalition of states with consistent health insurance laws will lower development and distribution costs, making the coalition states a larger attractive market for more rapid introduction of new products and services. In addition, a multistate market with common standards will encourage new insurers to locate and initiate business in the coalition states' market. The increased market size and common state requirements will increase competition among insurers and lower premiums.

Section 3. Definitions. For the purposes of this Act, the following definition applies:

A. "Comprehensive major medical" means a plan with at least a $1 million coverage lifetime maximum; a cost sharing out-of-pocket maximum no greater than that applicable in any given year to a high deductible health plan as defined under Section 223 of the Internal Revenue Code with applicable annual indexing; and coverage for at least:

1. Ambulatory patient services;
2. Emergency services;
3. Hospitalization;
4. Maternity and newborn care;
5. Mental health and substance use disorder services;
6. Prescription drugs;
7. Rehabilitative and wellness services;
8. Chronic disease management; and
9. Pediatric services.

Section 4. Duties of the Insurance Commissioner.

A. It shall be the duty of the Insurance Commissioner to identify at least four states with insurance laws sufficiently consistent with the laws of this state in order to create an efficient regional or multistate market.

B. The Insurance Commissioner shall be authorized to take a lead role in establishing a coalition of other states to adopt an alternative policy approval process for comprehensive major medical policies that utilize a common set of policy approval requirements among the coalition states.

C. The Insurance Commissioner shall approve for sale in **{insert state}** comprehensive major medical individual and group policies that have been approved for issuance under the alternative policy approval process in the coalition states where the insurer is authorized to engage in the business of insurance, so long as the insurer is also authorized to engage in the business of insurance in **{insert state}** and provided that any such policy meets the requirements established by the Insurance Commissioner.

D. The Insurance Commissioner shall adopt rules and regulations necessary to implement this Act.

Section 5. Dispute Resolution. Any dispute resolution mechanism or provision for notice and hearing currently provided under **{insert state}** law shall apply to insurers issuing and delivering plans pursuant to this Act.

Section 6. {Severability Clause}
Section 7. {Repealer Clause}
Section 8. {Effective Date}

ZAREPHATH CHARITY HEALTH CARE ACT (DRAFT, MAY 11, 2012)

SUMMARY

This Act provides full malpractice immunity for medical professionals who volunteer at least for hours per week, for four consecutive weeks, at a non-governmental free clinic that provides charity care to the poor. *(Note: See background document for more information.)*

MODEL LEGISLATION

Section 1. Title. This Act shall be known as the "Zarephath Charity Health Care Act."

Section 2. Scope and Definitions. This Act shall apply to physicians and dentists, referred to in this Act as "volunteer medical professionals," who are licensed to practice medicine by **{insert state board of medical examiners}** or licensed to practice dentistry by **{insert state board of dentistry}** and have applied for and obtained "deemed status" under the Federal Tort Claims Act.

Section 3. Malpractice Immunity.

A. When a volunteer medical professional provides documentation of "deemed status" under the Federal Tort Claims Act to **{insert state health and human services commissioner}**, and provides documentation that the volunteer medical professional has performed four hours per week for four consecutive weeks of volunteer service at or as a result of a referral from a non-government free clinic, the **{insert state}** will then provide the volunteer medical professional with full immunity from malpractice lawsuits relating to his private medical or dental practice. The non-government free clinic must have its own 501(c)(3) charity status but may be located within a hospital.

B. Physicians with specialties that cannot be practiced in an outpatient clinic location (e.g., surgeons, anesthesiologists, obstetricians) will provide the equivalent of four hours per week of free care in their usual venue for patients referred through a non-government free clinic.

C. The medical director of the non-government free clinic and the volunteer medical professional shall certify every three months thereafter that the four hours per week of volunteer professional services have been performed.

D. The volunteer medical professional shall be considered an employee of **{insert state}** only for the purposes of medical malpractice coverage.

E. The **{insert state health and human services commissioner}** shall adopt rules and regulations to effectuate the purposes of this Act.

Section 4. {Severability Clause}
Section 5. {Repealer Clause}
Section 6. {Effective Date}

Replacing the Medicaid System with Real Charity

ALEC's 2012 Spring Task Force Summit

May 10, 11, 2012

Charlotte, North Carolina

By Alieta Eck, MD, President, AAPS

SUMMARY

Medicaid began in 1965 as a combined federal and state program to provide medical care for the poor and uninsured. Today, it severely underpays physicians, frustrates patients who are looking for physicians and is overwhelming the budgets of states. The federal *Patient Protection and Affordable Care Act* (PPACA) will put the states on the path to financial ruin, expanding the ineffective Medicaid program by at least 50%.

It is time to go back to real charity, where physicians do not charge, indigent patients do not pay and the taxpayer is removed from the transaction.

THE PROBLEM

Medicaid comprises one-quarter to one-third of the average state budget; $10.7 billion in my home state of New Jersey alone. Half comes from the federal government and half from the state—but all from the same taxpayers. It pays physicians so poorly that most do not enroll, and those who do enroll lose money on every transaction. Medicaid patients have difficulty finding physicians who "take their insurance," so they often go to the emergency room armed with their Medicaid card at no personal cost. The most common reason a Medicaid patient goes to the ER is for an upper respiratory infection—bronchitis, a sore throat or earache. The taxpayers pay dearly.

In determining where the Medicaid dollars go in New Jersey, for example, the numbers are startling. $5.3 billion pays for elder care including nursing homes. $5.4 billion pays for acute care. Of the acute care dollars, $2 billion goes to Medicaid managed care and $800 pays for federally qualified health centers. If one assumes 20% administrative costs, then $500 million is paying for administrators, while a mere $90 million goes for doctors, labs and x-rays. Doctors are underpaid, patients cannot find a physician, and yet the taxpayers are on the hook for $10.7 billion.

The Medicaid bureaucracy is huge—for they must enroll and dis-enroll patients, process claims, weed out fraud and abuse. Of the 491 New Jersey Medicaid employees, 50 are paid full-time to find fraudulent Medicaid recipients and false claims.

Medicaid has all the wrong incentives, as many beneficiaries take great pains to get enrolled and then become dependent on their "benefits." They are fearful of taking entry level jobs lest they lose their "coverage." They often have incentives to lie about or magnify their symptoms to remain on Medicaid.

PPACA will dramatically increase the Medicaid rolls. Currently one in seven residents in New Jersey is on Medicaid, and this will grow dramatically once PPACA is fully implemented. States are already overburdened.

Federally Qualified Health Centers (FQHCs) are heavily endowed by the federal and state governments. They were started in an attempt to have a place where Medicaid patients could go. They cost 10x more than a real charity clinic—$150 per patient visit, versus $15 in a non-government free clinic (NGFC).

ADVANTAGES OF NON-GOVERNMENT CHARITY

Charity implies personal sacrifice to aid a fellow human being. When the charitable person is compensated, it is no longer true charity. The Zarephath Health Center (ZHC), a NGFC in central New Jersey, sees 300-400 patients per month while open only 12 hours per week. It is an efficient organization, run completely by volunteers. Its total budget in 2010 was $58,000, none from the taxpayers.

At the ZHC, the community comes together to help the poor in ways other than just health care—support groups, literacy training, job training, mentoring, and health classes can be provided. Food and clothing is available next door. Poverty ought to be a temporary condition, not a way of life. Volunteers help people improve their circumstances in individualized ways. Both the giver and recipient of true charity are uplifted.

Having many NGFCs dotted around the state would provide ready access to people who find themselves sick with no insurance or means to pay. As it was before 1965, the poor would go where they knew volunteers would help them instead of running to a government agency where they would have to fill out papers. Baby Boomers are retiring at a rate of 10,000 per day in this country, so they could form an army of experienced volunteers, able to use their time and expertise to volunteer in free clinics.

The difficulty lies in finding enough physicians to volunteer. They are small businessmen, being crushed by third party underpayment, government over-regulation and the overzealous medical malpractice industry.

The *Federal Tort Claims Act of 1996* (FTCA) provides medical malpractice coverage to physicians who volunteer at NGFCs. These professionals are considered part of the Federal Public Health Service for the purpose of malpractice coverage. In the eight years since this has been implemented, there have been no successful lawsuits nationwide against a physician in a volunteer clinic. The scope of FTCA coverage is limited—only covering the work actually performed at the approved NGFC. Work done at the hospitals such as surgery or deliveries are not covered by the federal government.

PROPOSAL FOR THE STATES

We would like to propose that the states encourage the opening of many NGFCs, each with its own 501(c)3 charity status—run by volunteers from churches, synagogues, philanthropic groups, the Salvation Army, Kiwanis, etc.

We would propose that physicians could donate four hours a week at such a facility, ensuring the availability of every specialty. Each clinic would set criteria to determine the eligibility of the patients seen. There would be no entitlement ID cards handed out to patients.

We would simply ask the states to extend the FTCA medical malpractice coverage to entire practices of physicians who volunteer at NGFCs, considering them part of the State Public Health Service for purposes of medical malpractice coverage. We are not asking the state to buy commercial insurance for each physician, but just cover them like they do any other public official. If a patient wants to sue, he would be suing the state, not the individual physician.

This would require a single state office where the program would be monitored, clinic start-ups would be encouraged, and data would be collected to verify the hours the physicians participated. Surgical specialties could provide their volunteer services in the hospitals on patients referred through the NGFC.

The cost to the state would only be incurred in the event of a lawsuit. In that regard, the numbers speak volumes. Currently, physicians in New Jersey pay a total of $300 million in medical malpractice premiums. If nothing changed and they continued to be sued at the current rate, taking on this liability would still be a huge savings for the state. $300 million is a good deal less than $5.4 billion in acute care Medicaid expenditures.

But, judging from the experience of the FTCA where no volunteering physician has been sued in the past 8 years, we believe the lawsuit volume would decrease dramatically. Patients and lawyers are less likely to sue the state than a physician with coverage from a private medical malpractice insurer. All defensible lawsuits, now considered to be 70%, would disappear. Yet if a patient were harmed, the state would provide the compensation.

As for hospitals, there are two ways that they deal with the poor—through pre-enrollment in the Medicaid system or through what is called “charity care.” The hospitals could continue the current charity care system where eligibility is determined at the point of need. Hospitals are reimbursed by the state at the end of the year or absorb the cost of charity care patients. Also, hospitals typically hold benefits and fundraisers to help defray the costs of the charity care. In New Jersey, the state currently budgets $900 million per year for charity care.

The overall results of returning charity to the communities would be better access for the poor in low-cost venues, lower physician overhead in the way of relief from having to pay medical malpractice premiums, and a huge burden lifted off the backs of the taxpayers. Prosperity and economic growth for the State of New Jersey would ultimately result.

The plan would be completely reproducible in all other states.

HEALTH CARE PRICE DISCLOSURE ACT (DRAFT, MAY 11, 2012)

SUMMARY AND BACKGROUND

This Act requires health care professionals to make available the "direct pay" price for at least the 25 most common services or procedures; the Act also requires health care facilities to make available the "direct pay" price for (if applicable) at least the 50 most used diagnosis-related group codes and at least the 50 most used outpatient service codes for the facility.

Over the past 45 years, health care has evolved to a point where consumers have little impact on pricing. The most recent data on health care spending in the United States, released in January 2012, revealed that the bottom 50% of health care utilizers in the country spend only about 3% of health care dollars. The bottom 70% of health care utilizers spend only about 10% of health care dollars.

Only 12 cents of every health care dollar is paid directly out-of-pocket by patients. The rest is paid by government and insurance—and billings seen by patients rarely reflect actual prices paid, frightening patients about the idea of directly paying for services. Our health care system has put us in a Catch 22: We do not want to pay for health care ourselves because it's so expensive, but it's so expensive because we do not pay for it ourselves.

There is little incentive for providers to post prices due to competitive motives. Price transparency for direct cash payers is essential if we are ever to transition to a more market-oriented, competitive health care system.

Transparent pricing will help give episodic health care users—the group the makes up a significant majority of the population—better access to understandable price information, and the marketplace would likely make good use of the open information to disseminate that data in the ways used by every other aspect of our economy.

MODEL LEGISLATION

Section 1. Title. This Act shall be known as the "Health Care Price Disclosure Act."

Section 2. Definitions. For the purposes of this Act, the following definitions apply:

A. "Direct pay price" means the price that will be charged for a lawful health care service if the service is paid without a public or private third party, not including an employer, paying for any portion of the service.

B. "Health care facility" means a hospital, outpatient surgical center, treatment or diagnostic imaging center or urgent care center.

C. "Health care professional" means a person licensed by **{insert state licensing boards}**.

D. "Health care provider" does not include a hospital licensed pursuant to **{insert state statute covering license provisions for construction or modification of a health care institution}**.

Section 3. Health Care Insurer; Providers; Negotiated Rates. A health care insurer may not use the direct pay price of a health care provider for a health care service as the basis to decrease any negotiated rate between that health care provider and the health care insurer.

Section 4. Public Availability; Health Care Professional Charges. A health care professional must make available to the public on request in a single document the direct pay price for at least the 25 most common services for the health care professional. The services may be identified by a common procedural terminology code or by a plain English description. The document must be updated at least annually. The direct pay price is for the standard diagnosis for the service and does not include any complications or exceptional treatment.

Section 5. Public Availability; Health Care Facility Charges.

A. A health care facility must make available to the public on request in a single document the direct pay price for at least the 50 most used diagnosis-related group codes, if applicable, for the facility and at least the 50 most used outpatient service codes, if applicable, for the facility. The document must be updated at least annually. The direct pay price is for the standard diagnosis for the service and does not include any complications or exceptional treatment.

B. A health care facility is not required to report the direct pay prices to the **{insert state department of health and human services}** for review or filing as a prerequisite to operation. This Section does not authorize the department or **{insert state health and human services secretary}** to approve, disapprove, or limit a health care facility's direct pay price for services.

Section 6. {Severability Clause}
Section 7. {Repealer Clause}
Section 8. {Effective Date}

PHYSICIAN AND PATIENT FREEDOM OF VACCINE CHOICE ACT (DRAFT, MAY 11, 2012)

SUMMARY AND BACKGROUND

This Act requires the state Department of Health and Human Services to implement a system that allows providers to choose among all vaccine products that are deemed safe and effective by the FDA and are best for each provider's patients.

Choice allows each provider to decide which vaccine to use, based on their medical experience/expertise and the specific needs of his or her patients. Choice allows patients and parents of young children the ability to take part in the decision regarding which vaccines are best for their own circumstances.

Clear, free market-based provider access to all FDA-approved and CDC-recommended (not mandated) vaccines will help ensure strong competition and continued innovation among biopharmaceutical companies to research, develop, and manufacture the next generation of immunization products. Such innovation helps lead to product and price competition, lower healthcare system costs, and better public health outcomes in the United States.

MODEL LEGISLATION

Section 1. Title. This Act shall be known as the "Physician and Patient Freedom of Vaccine Choice Act."

Section 2. Provider Choice System for Vaccines.

A. The **{insert state department of health and human services}** shall establish and implement a provider choice system for the vaccines for children program operated by the **{insert state department of health and human services}** under the authority of 42 USCS Section 1396s, and for any other program that supplements the vaccines for children program using state or federal funds.

B. The **{insert state department of health and human services}** shall ensure that eligible health care providers participating in the vaccines for children program, including providers participating in state and local health departments, federally qualified health centers, or rural health clinics, or any other program that supplements the vaccines for children program using state or federal funds, may select any vaccine licensed by the U.S. Food and Drug Administration, including combination vaccines and any dosage forms, that is:

    1. Recommended by the federal Advisory Committee on Immunization Practices; and

    2. Made available to the **{insert state department of health and human services}** by the Centers for Disease Control and Prevention of the United States Public Health Service.

C. The **{insert state department of health and human services}** shall allow providers to make such vaccine product selection at all regular ordering and reordering intervals throughout the calendar or fiscal year.

D. This section does not apply in the event of a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Section 3. Implementation. The **{insert state department of health and human services}** shall implement all or part of the provider choice system as soon as it is determined to be feasible; however, the **{insert state department of health and human services}** shall complete full implementation of the system not later than **{insert date for full implementation}.**

Section 4. {Severability Clause}
Section 5. {Repealer Clause}
Section 6. {Effective Date}

RESOLUTION SUPPORTING THE REPEAL OF THE INDEPENDENT PAYMENT ADVISORY BOARD (IPAB) (DRAFT, MAY 11, 2012)

SUMMARY AND BACKGROUND

On March 22, 2012, the U.S. House of Representatives passed H.R. 5, the *Protecting Access to Healthcare (PATH) Act*, by a 223-181 vote. This bill repeals the Independent Payment Advisory Board (IPAB) established in the *Patient Protection and Affordable Care Act* (PPACA). The U.S. Senate has yet to take up the issue.

This resolution calls for the repeal of IPAB, and for the repeal of any funding for IPAB's establishment or operation.

MODEL RESOLUTION

WHEREAS, Section 3403 of the Patient Protection and Affordable Care Act (PPACA) established the Independent Payment Advisory Board (IPAB) consisting of 15 members appointed to six-year terms, and charged it with the reduction of spending in Medicare by reducing payments to medical professionals; and

WHEREAS, Twelve IPAB members will be appointed by the President, and practicing medical professionals, including physicians, are prevented from membership, almost certainly guaranteeing that only academics will serve on IPAB; and

WHEREAS, The decisions of IPAB cannot be challenged in the courts and are freed from the normal administrative rules process, such as requirements for public notice, public comment or public review; and

WHEREAS, IPAB recommendations carry the full force of the law, and will be very difficult for Congress to override unless 2/3 of the House and Senate vote to do so; and

WHEREAS, The IPAB board is specifically forbidden from "any recommendations to ration health care," but PPACA fails to define the word "ration." Instead, it allows IPAB to pay doctors reimbursement rates below costs, which in essence would constrict a physician's ability to treat patients; and

WHEREAS, Other provisions of PPACA already cut payments to medical professionals so deeply that by the end of this decade, Medicare payments will be lower than Medicaid payments, likely resulting in additional enrollment in Medicaid programs and pressure on state budgets; and

WHEREAS, Medicare-eligible seniors and others already have difficulty finding medical professionals to treat them without enactment of PPACA provisions.

NOW THEREFORE BE IT RESOLVED THAT, {Insert state legislature} believes it is not in the best interest of the state, or Medicare-eligible residents of the state, for the Independent Payment

Advisory Board to be implemented because its decisions will most certainly limit patient access to quality medical care; and

BE IT FURTHER RESOLVED THAT, {Insert state legislature} urges Congress to repeal provisions of Section 3403 of the Patient Protection and Affordable Care Act that establish the Independent Payment Advisory Board, as well as any funding for the establishment or operation of IPAB.

BE IT FURTHER RESOLVED THAT, Copies of this resolution be sent to the President of the United States, the appropriate leadership of the United States Congress and the United States Department of Health and Human Services, and the entire **{insert state}** delegation in the United States Congress.

ALEC American Legislative Exchange Council

LIMITED GOVERNMENT • FREE MARKETS • FEDERALISM

Health and Human Services Task Force Meeting
ALEC's 2011 States and Nation Policy Summit
Friday, May 11, 2011 • 2:00-5:00 p.m.

MEETING MINUTES

Legislative Members in Attendance (21)
Private Sector Members in Attendance (43)
Invited Guests in Attendance (7)
Others in Attendance (28)
ALEC Staff in Attendance (5)

* * *

Meeting began at 2:00 p.m.

The meeting began with welcoming remarks to the HHS Task Force by Public Sector Chair, Wisconsin Senator Leah Vukmir, and Private Sector Chair, Marianne Eterno of Guarantee Trust Life Insurance; roundtable introductions of HHS Task Force meeting attendees; recognition of new and returning ALEC private sector members; approval of the minutes from ALEC's 2011 Annual Meeting; and an update from ALEC HHS Task Force Director, Christie Herrera, on model legislation in the 2011 session.

The HHS Task Force saw a special presentation by Utah Representative Brad Daw on successes with health savings accounts for Utah state employees, and a special presentation by Tarren Bragdon of the Florida Foundation for Government Accountability on healthcare reforms in Florida.

HHS Task Force members considered the *Medicaid Managed Long-Term Care Services and Supports Act*, sponsored by Pam Perry of Amerigroup. After discussion, the public sector vote was 8 Yes, 6 No; the private sector vote was 9 Yes, 4 No. The *Medicaid Managed Long-Term Care Services and Supports Act* was approved.

HHS Task Force members considered the *Resolution Urging States and Interested Parties to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse*, sponsored by Candie Phipps of Endo Pharmaceuticals. After discussion, the public sector vote was 3 Yes, 11 No. The *Resolution Urging States and Interested Parties to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse* was not approved.

HHS Task Force members considered the *Health Care Equitable Payment Act*, sponsored by Jane Orient of the Association of American Physicians and Surgeons. After discussion, the public sector vote was 4 Yes, 12 No. The *Health Care Equitable Payment Act* was not approved.

Finally, HHS Task Force members considered the *Resolution Ensuring Patient Protections Remain in Place in Medicaid Pharmacy Benefits,* sponsored by Iowa Representative Linda Miller. After discussion, the *Resolution Ensuring Patient Protections Remain in Place in Medicaid Pharmacy Benefits* was tabled for consideration at a later meeting.

The meeting adjourned at 4:45 p.m.

* * *

Mission Statement

The American Legislative Exchange Council's mission is…

To advance the Jeffersonian Principles of free markets, limited government, federalism, and individual liberty through a nonpartisan public-private partnership among America's state legislators, concerned members of the private sector, the federal government, and the general public.

To promote these principles by developing policies that ensure the powers of government are derived from, and assigned to, first the People, then the States, and finally the Federal Government.

To enlist state legislators from all parties and members of the private sector who share ALEC's mission.

To conduct a policy making program that unites members of the public and private sector in a dynamic partnership to support research, policy development, and dissemination activities.

To prepare the next generation of political leadership through educational programs that promote the principles of Jeffersonian democracy, which are necessary for a free society.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

SCHOLARSHIP POLICY BY MEETING

ALEC Spring Task Force Summit:

1. ***Spring Task Force Summit Reimbursement Form:*** ALEC Task Force Members are reimbursed by ALEC up to $350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for up to a two-night stay at the host hotel are covered by ALEC.
3. Registration fees are not covered; however, Task Force Members may submit registration expenses for payment from their state scholarship account upon approval of the State Chair.
4. *Official Alternate Task Force Members* (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.
5. ***State Scholarship Reimbursement Form***: Any fees above the set limit, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.
6. *Non-Task Force Members* can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

ALEC Annual Meeting:

State Scholarship Reimbursement Form: State scholarship funds are available for reimbursement by approval of your ALEC State Chair. Expenses are reimbursed after the conference, and may cover the cost of travel, room & tax, and registration. Receipts are to be submitted to the State Chair, who will then submit the signed form to the Director of Membership.

ALEC States & Nation Policy Summit:

1. ***States & Nation Policy Summit Reimbursement Form***: ALEC offers <u>two</u> scholarships per state to cover the cost of travel, room & tax, and registration not to exceed <u>$1,000.00 per person</u> for a total of $2,000.00 per state. ALEC scholarship recipients must be named by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Director of Membership.
2. ***State Scholarship Reimbursement Form***: Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

ALEC Academies:

Academy Reimbursement Form: Attendees of ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the Academy, and will be reimbursed up to $500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be forwarded to the appropriate Task Force Director and approved by the Director of Policy.

American Legislative Exchange Council
TASK FORCE OPERATING PROCEDURES

I. MISSION OF TASK FORCES

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Board of Directors.

II. TASK FORCE RESPONSIBILITIES

A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the **specific subject areas** of the Task Force.

B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.

C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:

- publications that express policy positions, including, but not limited to State Factors and Action Alerts;
- educational communication and correspondence campaigns;
- issue specific briefings, press conferences and press campaigns;
- witness testimony and the activities of policy response teams;
- workshops at ALEC's conferences; and
- specific focus events.

D. The Executive Director is to develop an **annual budget**, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.

III. GENERAL PROCEDURES

A. Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Board of Directors if the issue does not fall within the **jurisdiction** of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all **model bills and resolutions 35 days before** the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have **10 days after the 35-day mailer deadline** to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Board Chair. The National Chair and the Private Enterprise Board Chair will in turn refer the matter in question to the Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co- chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

The Task Force Board Committee Co-Chairs shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the **National Chair and the Private Enterprise Board Chair**. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-

day mailer. The National Chair and the Private Enterprise Board Chair decision is final on this model bill or resolution.

Joint referral of model legislation and/or resolutions are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.

B. **The National Chair and the Private Sector Board Chair** will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.

C. **The Board of Directors** shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Board of Directors from developing ALEC policy; however, such a practice

should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.

D. The **operating cycle of a Task Force** is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.

E. If a Task Force is **unable to develop an operating budget**, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.

F. **The Board of Directors** shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31st, unless an alternative date has been approved by the Executive Director.

B. Each Task Force shall have least two **Co-Chairs**; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in

accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:

(1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
(2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
(3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and
(4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.

C. Each Task Force shall have an **Executive Committee** appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).

D. Each Task Force may have any number of **subcommittees**, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force before it can be considered official ALEC policy.

E. Each Task Force may have advisors, appointed in accordance with Section VI (G). **Advisors** shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official

Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

V. Task Force Budgets

A. Each Task Force shall develop and operate a yearly budget to fund meetings.

B. The **operating budget** shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.

C. The operating budget shall not be used to cover Task Force meeting expenses associated with **alternate task force members'** participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.

D. The **programming budget** shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

VI. PROCESS FOR SELECTING TASK FORCE MEMBERS, CHAIRS, COMMITTEES AND ADVISORS

A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing **three legislative members and three alternates to the Task Force** who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the **appointment cannot be made earlier than thirty days** after the new member has been nominated. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature. A preference will be given to legislators who sponsor ALEC Task Force model legislation in the state legislature.

B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chairman will jointly select and appoint in writing **the Task Force Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairmen will jointly make the final selection, but should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairmen may reappoint a Task Force Chair to a second operating cycle term.

C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the **Task Force Executive Committee**, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.

D. Prior to February 1 of each year, the Private Enterprise Board Chair and the immediate past Private Enterprise Board Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Board may appoint in writing **new private sector members** to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.

E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Board and the immediate past Private Enterprise Board Chair will select and appoint in writing the **Task Force Private Sector Co-Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.

F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the **private sector members of the Task Force Executive Committee**, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.

G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as **advisors** to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector **Task Force Co-Chair** from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an **Executive Committee or subcommittee** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove **any Private Sector Task Force Co-Chair** from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues. .

D. The Private Sector Task Force Co-Chair may remove any **private sector member of an Executive Committee or subcommittee** from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an **advisor** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may **resign** from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the

effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

G. All **vacancies** for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

VIII. MEETINGS

A. **Task Force meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. **Executive Committee meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.

B. **At least forty-five days** prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or **amendment** of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).

C. **All Task Force meetings are open** to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions

and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.

D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the **appointment letter** sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of **Roberts Rules of Order**, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.

F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A **vote** on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. **No proxy, absentee or advance voting is allowed.**

G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a **Task Force vote by mail or any form of electronic communication** on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and

policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an **emergency situation** can be declared by:

(1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or

(2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall **constitute a quorum** for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. *REVIEW AND ADOPTION PROCEDURES*

A. All Task Force policy statements, model bills or resolutions shall become **ALEC policy** either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, **a formal review by the Board of Directors**. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be

formally reviewed by the Board of Directors before the policy is adopted as official ALEC policy.

C. A member of the Board of Directors may request a formal review by the Board of Directors. The **request must be in writing** and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chairman to the appropriate Task Force Chair. The National Chairman shall schedule a formal review by the Board of Directors no later than the next scheduled Board of Directors meeting.

D. The review process will **consist of key members of the Task Force**, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Board of Directors. The following is the review and adoption procedures:

- **Notification of Committee**: Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.

- **Staff Analysis**: Will be prepared in a neutral fashion. The analyses will include:
  - History of Task Force action
  - Previous ALEC official action/resolutions
  - Issue before the board
  - Proponents arguments
  - Opponents arguments

- **Standardized Review Format**: To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
  - Task Force Chair(s) will be invited to attend the Board Review
  - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
  - Twenty minutes that is equally divided will be given for both sides to present before the Board.
  - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
  - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.

- All votes will be recorded for the official record.

- **Notification of Committee**: The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.

E. **The Board of Directors can**:

(1) Vote to affirm the policy or affirm the policy by taking no action, or
(2) Vote to disapprove the policy, or
(3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.

F. Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.

Exceptions to these Task Force Operating Procedures must be approved by the Board of Directors.